

Sunset Public Hearing Questions for
State Board of Examiners for Land Surveyors
Created by Section 62-18-103, *Tennessee Code Annotated*
(Sunset Termination June 2021)

Enabling Statute, Purpose, and Rules and Regulations

1. Please provide a brief introduction to the Board of Examiners for Land Surveyors, including information about its purpose, statutory duties, and staff.

In 1967, the members of the Tennessee Engineering Board determined that the surveyors of Tennessee needed their own regulations. The land surveyor's law, Public Chapter 207 (Acts of 1969), became law when signed by Governor Buford Ellington, on May 7, 1969 and is codified at Tenn. Code Ann. § 62-18-101 et seq.

The mission of the Tennessee Board of Examiners for Land Surveyors (the “Board”) is to serve the citizens of Tennessee by efficiently and effectively providing a fair, flexible, and positive regulatory environment for consumer service industries. The Board’s goal is to assure that every licensee has met the minimum qualifications prior to being granted a license. The Board has the authority to take disciplinary action against those licensed or required to be licensed as a Land Surveyor and has also set the minimum acceptable standards of practice for the profession, as required by statute.

The Board is attached to the Division of Regulatory Boards within the Tennessee Department of Commerce and Insurance and currently has a staff of five people, including an Executive Director, Michael Schulz.

2. Has the board promulgated rules and regulations? If yes, please cite the reference(s).

Yes, the Board has rules found in Tenn. Comp. R. & Regs. Chapters 0820-01 – 0820-05.

Board Organization

3. Please provide a list of current members of the board. For each member, indicate who appointed the member, statutory member representation, the beginning and the end of the member’s term, and whether the member is serving a consecutive term.

Member	Appointment	Statutory Representation	Beginning of Term	End of Term	Consecutive Term
James Caughman, III	Gov. Haslam	West Tennessee Professional Member	7/1/2013	Pending Reappointment	Yes
Timothy Lingerfelt	Gov. Haslam	East Tennessee Professional Member	7/31/2015	6/30/2021	No

Jackie Dillehay	Gov. Haslam	Middle Tennessee Professional Member	10/01/2017	9/30/2022	No
Kevin Martin	Gov. Lee	Represents the Public	7/23/2020	6/30/2026	No

The board is made up of four total members. Of those, three are professional members who must have at least ten years' experience in the practice of land surveying and shall have been in responsible charge of work for at least five years. Further, each of those members must be a citizen of the United States, have been a resident of Tennessee for at least five years and be at least 35 years of age. In addition, there is one public member on the board who is not engaged in the practice of land surveying. That member is required to be a resident of Tennessee and possess good moral character.

4. Are there any vacancies on the board? If yes, please indicate how long the position has been vacant and explain steps that have been taken to fill the vacancy.

The board does not currently have any vacancies.

5. How many times did the board meet during each of the last two fiscal years? How many members were present at each meeting? Please note meetings where the board did not have a quorum.

In FY 18-19 the board conducted meetings once a quarter for a total of four meetings. Two meetings were conducted with full attendance; quorum was always maintained.

In FY 19-20 due to COVID-19, the board conducted three meetings with the April meeting being cancelled. One meeting was fully attended and quorum was always maintained.

Financial Information

6. Please provide a summary of the revenues and expenditures for the board for each of the last two fiscal years. Does the board have a reserve balance? If yes, please provide additional relevant information regarding the reserve balance.

	Revenues	Expenditures	Reserve Fund
FY18-19	\$14,750	\$122,429	\$215,316
FY19-20 (as of May 2020)	\$308,580	\$124,067	\$398,014

**Land Surveyors all renew on odd years by December 31.

7. What per diem or travel reimbursements do board members receive? How much was paid to individual board members in each of the last two fiscal years?

Board members receive a per diem of \$50 for days when they work four (4) or more hours performing duties relating directly to the Board (such as application or continuing education audit reviews) or for time or days spent attending Board meetings where a quorum is present (T.C.A. § 8-23-205). In addition, they receive travel reimbursement for the carrying out of Board-sanctioned activities pursuant to the state's comprehensive travel regulations.

Member Name	FY18-19	FY19-20	Total
Timothy Lynn Lingerfelt	\$2,276.06	\$1,659.86	\$3,935.92
James B. Caughman III	\$1,788.51	\$879.42	\$2,667.93
Jackie L. Dillehay	\$48.88	\$146.64	\$195.52
Jedidiah C. McKeeham	\$897.04	\$518.24	\$1,415.28
Total	\$5,010.49	\$3,204.16	\$8,214.65

8. Is the Department of Commerce and Insurance responsible for developing and submitting a budget for the board?

Yes.

9. Does the board impose fees, fines, and/or penalties on land surveyors? How are those fees, fines, or penalties collected?

Tenn. Comp. R. & Regs. 0820-01-.05 establishes a schedule of fees for application, registration, renewal and late penalties. These fees may be mailed in or submitted through the online payment system.

Sunshine Law, Public Meetings, and Conflict of Interest Policies

10. Is the board subject to sunshine law requirements for public notice of meetings, prompt and full recording of minutes, and public access to minutes? (This provision of state law is located in *Tennessee Code Annotated*, Section 8-44-101 et seq.)? If so, what procedures does the board have for informing the public of meetings and making minutes available to the public?

The Board is subject to sunshine law requirements for public notice of meetings, prompt and full recording of minutes, and public access to minutes. The Board posts to its website notice of all meetings and a copy of the agenda prior to each meeting. Additionally, each notice is also posted on the Regulatory Boards Division webpage prior to the meeting. Minutes are available on the Board's website, and meeting recordings are made available through on the Board's YouTube page.

11. Does the board allow for public comment at meetings? Is prior notice required for public comment to be heard? If public comment is not allowed, how does the board obtain feedback from the public and those they regulate?

Yes, the Board allows for public comment at meetings. There is no prior notice required.

12. Does the board have policies to address potential conflict of interest by members, employees, or other state employees who work with the board?

The Board has policies in place to address potential conflicts of interest by council members, employees, or other state employees who work with the council in any capacity. The Department of Commerce and Insurance collects a conflicts of interest statements from each member of the Board on an annual basis, and each Board member is subject to Executive Order 20 regarding Conflicts of Interest for Executive Branch employees, as well as the prohibitions regarding lobbyists pursuant T.C.A. § 3-6-301 et seq. Compliance with T.C.A. § 68-115-103(i) is ensured because Departmental staff attends all minutes of the meeting and ensures that a quorum is present prior to commencing any official action. Compliance with T.C.A. § 68-115-103(j) is accomplished by the required reporting of conflicts by Board members. Further, any information indicating that a violation of that section is occurring or has occurred would be reviewed by the Department and notification made to appropriate parties if such a violation is found.

Review Process and Oversight Responsibilities

13. How many registered land surveyors are there in the State of Tennessee?

There are 1,068 active land surveyors.

14. Section 62-18-108, *Tennessee Code Annotated*, requires the board to keep a record of all applicants for registration. How many applicants for registration did the board receive during each of the last two fiscal years? Of those, how many registrations were granted?

	Applications Received	Licenses Issued
FY 18-19	19	18
FY 19-20 (as of May 2020)	23	22

15. How many registrations have been issued in each of the last two fiscal years under the provisions of Section 62-18-110, *Tennessee Code Annotated*, which allows for reciprocity?

FY18-19: 18 registrations approved.

FY19-20: 22 registrations approved.

16. Section 62-18-115, *Tennessee Code Annotated*, allows the board to inquire into the identify of any person claiming to be a land surveyor and to prosecute any person violating this chapter. Please provide information on investigations and/or prosecutions for each of the last two fiscal years.

FY18-19: The Board received one complaint alleging unlicensed activity. During the period, no person was disciplined for unlicensed activity.

FY19-20: The Board received no complaints alleging unlicensed activity. During the period, no person was disciplined for unlicensed activity.

17. Under the provision of Section 62-18-116, *Tennessee Code Annotated*, the board may deny, suspend, or revoke a certification of registration. For each of the last two fiscal years, how many certificates of registration were denied and what were the primary reasons for denial? How many were suspended or revoked during the same period? What were the primary reasons for revocation or suspension?

Under T.C.A. § 62-18-116 the board has not suspended or revoked any applicants or licensees during the last two fiscal years. Applicants sometimes get deferred if they do not meet the requirements and they are given a path to correct their application. This might delay their approval, but none have been denied during the last two fiscal years.

18. How does the board evaluate and/or review complaints against land surveyors?

The Complaints Division for Commerce and Insurance receives complaints against land surveyors and handles them in accordance with the general procedure for the Division of Regulatory Boards. Once a complaint is received, it is submitted to the individual or company the complaint was filed against for response. The response is then shared with the Complainant who has an opportunity to respond and include any additional information. The complaint, response, and any additional correspondence are then forwarded to the Board's legal counsel for review.

The legal counsel then reviews the file and all documentation and creates a summary and recommendation to present before the Board at the regularly scheduled meetings. The legal report is presented anonymously as to not prejudice the Board on reaching a decision in either party's favor. Upon hearing the summary, the Board will vote on whether they believe the facts of the matter are grounds for discipline under the Board's statutory authority. If the Board determines there has not been a violation under the Act, then the Board will often dismiss the matter. If the Board determines that the facts warrant discipline, the Board may authorize a formal hearing but first give an option for the Respondent to settle via a Consent Order. Discipline types include letters of instruction, letters of warning, civil penalties, suspension, and revocation. If the Respondent is sent a Consent Order and decides against settlement, then the matter may be set by legal counsel for a formal hearing between the Department and the Respondent.

If consumers have any additional questions or concerns, they can visit the Board's website and contact the Board staff via telephone or email. Also, the Department's Customer Service Center aids consumers. Once a complaint is received by the Department's Centralized Complaints Division, the consumer is provided additional information concerning their complaint that will help aid in the process.

19. What is the board's role in ensuring that all land surveyors in the state are adequately trained? Does the board maintain a database containing records of all land surveyors' compliance with continuing professional education requirements?

The board maintains a database and monitors all relevant training and continuing education credits obtained by land surveyors in Tennessee. It is incumbent on all licensees to provide proper course completion documents to the Board for review and verification. These verification processes occur in tandem with the license renewal process.

Reports, Major Accomplishments, and Proposed Legislative Changes

20. What were the board's major accomplishments during the last two fiscal years?

The board moved to reviewing its applications online using SharePoint as a secure server for large files. In 2015, when the Board last went through sunset review, its meetings often took two days and applicants sometimes waited months to have all their documents and plats reviewed. In the last two fiscal years applications have been simplified and Board members are able to review them from home resulting in much more efficient meetings and applicants receiving feedback of pending items in a much more timely manner.

In 2019, an amendment to T.C.A § 66-6-101 established the designation of Geodetic Survey System of plane coordinates that will be the sole coordinate system after December 31, 2022.

21. What reports does board prepare to provide the public with information about its activities, operations, and accomplishments? Who receives copies of these reports? Please provide a link to any reports issued in the last two fiscal years.

The Division of Regulatory Boards Disciplinary Action Report is available online for the public and lists disciplinary actions taken by each of the Division's boards by month. This report is available at <https://www.tn.gov/commerce/disciplinary-actions/regulatory-board-disciplinary-actions.html>. Additionally, recordings of Board meetings as well as minutes are also available on the Board website.

22. Please describe any items related to the board that require legislative attention and the proposed legislative changes.

No legislative changes are needed at this time.

23. Should the board be continued? To what extent and in what ways would the absence of the board affect the health, safety, or welfare of Tennesseans?

Yes. This Board should be continued in order to ensure that only properly qualified individuals engage in the practice of land surveying. Termination of the Board would negatively impact the public health, safety, and welfare, since the public would no longer have the assurance that land is being surveyed by qualified individuals. All 50 states have

recognized that the regulation of land surveyors is vital to protect the public's health, safety, and welfare.

24. Identify the appropriate agency representative or representatives possessing substantial knowledge and understanding of the responses provided to the sunset review questions.

Michael Schulz, Executive Director
Maria Bush, Associate General Counsel.

25. Identify the appropriate agency representative or representatives who will respond to the questions at the scheduled sunset hearing.

Toby Compton, Assistant Commissioner
Michael Schulz, Executive Director
Maria Bush, Associate General Counsel.

26. Please provide the office address, telephone number, and email address of the agency representative or representatives who will respond to the questions at the scheduled sunset hearing.

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DEPARTMENTAL POLICY State of Tennessee Department of Commerce and Insurance	POLICY NUMBER: 2020-33501-POL-0017
	EFFECTIVE DATE: February 20, 2020
Approved by Commissioner: 	SUPERSEDES: All previous policies governing Ethics, Conflicts of Interest and Acceptance of Gifts.
SUBJECT: Policy Governing Ethics, Conflicts of Interest and Acceptance of Gifts	

I. POLICY NAME:

Ethics, Conflict of Interest and Acceptance of Gifts.

II. PURPOSE:

This Department of Commerce and Insurance Policy outlines the high standards of honesty, integrity, impartiality, and conduct that are expected of the employees of the Tennessee Department of Commerce and Insurance.

III. APPLICATION:

This policy applies to all employees of the Department of Commerce and Insurance.

This policy supersedes the conflict of interest policy issued and adopted by Commissioner Julie Mix McPeak on April 4, 2014.

IV. AUTHORITY:

Executive Order 2 (January 24, 2019) and Tenn. Code Ann. § 4-3-121. If any portion of this policy conflicts with applicable state or federal laws or regulations, that portion shall be considered void. The remainder of this policy shall not be affected by any voided portion and shall remain in full force and effect.

V. POLICY STATEMENT:

Employees of the Department of Commerce and Insurance shall at all times ensure the proper performance of departmental business; maintain the confidence of citizens; and avoid misconduct and conflicts of interest.

A conflict of interest occurs when an employee's private interest differs, has the potential to differ or appears to differ from his or her professional obligations to the Department.

ARTICLE 1. DEFINITIONS

As used in this policy:

Chief Ethics Officer means the Chief Ethics Officer for the Executive Branch appointed by the Governor as outlined in Executive Order 2 as signed in January 2019.

Commissioner means the Commissioner of the Department of Commerce and Insurance or the Commissioner's designee.

Compliance Officer means the Departmental employee designated by the Commissioner with the following duties and responsibilities:

1. Coordinates overall Departmental compliance with this policy and Executive Order 2;
2. Maintains records documenting compliance and non-compliance;
3. Reports to the Commissioner any potential material violation of this policy and Executive Order 2;
4. Refers material violations of Executive Order 2 to the Ethics Committee and performs the following as needed:
 - a. provides additional information to the Ethics Committee,
 - b. appears before the Ethics Committee, and
 - c. as necessary, makes recommendations to the Ethics Committee;
5. Informs all employees of the requirements of Executive Order 2 and the requirements of this policy;
6. Distributes a copy of Executive Order 2 to each affected employee and a copy of this policy to all employees;
7. Obtains from each employee a signed statement certifying that the employee has received a copy of the applicable Executive Order(s) and this policy, that the employee has either read the applicable document(s) or that the document(s) has been read to them, and that the employee agrees to abide by the terms of the document(s) as a condition of initial and continued employment.
8. Annually (on or before January 31 of each year) prepares a written statement from the Commissioner to the Governor with a copy to the Commissioner of the Department of Finance and Administration certifying that all material violations of Executive Order 2, known to the Commissioner or the Compliance Officer, have been reported to the Ethics Committee.
9. Advises employees in response to questions regarding interpretation of this policy and Executive Order 2.
10. Pursuant to Executive Order 2, numbered paragraph 5, coordinates the gathering of the required information for the "Statement of Disclosure of Interest Form" and files the form with the Chief Ethics Officer on or before April 15th of each year.
11. Pursuant to Executive Order 2, numbered paragraph 5, coordinates the gathering of the required information for the "Conflict of Interest and Ethics Policy Receipt Statement" and files the statement with the Chief Ethics Officer on or before April 15th of each year.
12. Pursuant to Executive Order 2, numbered paragraph 4, subsection c, receives and forwards the "Gift Prohibition Exception Disclosure" form to the Chief Ethics Officer.

Department means the Department of Commerce and Insurance.

Division means any division of the Department of Commerce and Insurance.

Employee means any person employed by the Department in an employer/employee relationship or any person the Department employs in an independent contractor capacity, where applicable, and shall not include any member of any board which the Department administers.

Executive Service Employee means any person employed by the Department who is not a Preferred Service Employee as that term is defined herein.

Immediate Family means a spouse, parent, child or sibling of the employee.

Person means any natural person, individual, corporation, limited liability company, partnership, association or other legal entity.

Preferred Service Employee means any person employed by the Department who has been placed under the preferred service provisions of Tenn. Code Ann. § 8-30-201, et seq.

State means State of Tennessee.

ARTICLE 2. CONFLICTS OF INTEREST PROHIBITED

Section 1 Employment or Affiliation with Regulated Persons:

1. An employee, or a member of an employee's immediate family, shall not:
 - a. Accept or maintain outside employment with a person that is regulated in any manner by any division in which the employee or immediate family member performs work of any sort, **unless** the employee gives written disclosure of this employment to his/her immediate supervisor and division head. The employee must completely recuse him/herself from any matter the outside employer has before the Department; or
 - b. Serve on the board of directors or advisory board, or act as an unpaid consultant, or act in any other directive or authoritative capacity with a person that is regulated in any manner by any division in which the employee performs work of any sort, **unless** the employee gives written disclosure of this employment to his/her immediate supervisor and division head. The employee must completely recuse him/herself from any matter the outside employer has before the Department.
2. Immediately upon employment and as a condition of continued employment with the Department:
 - a. An employee shall disclose the name, address and telephone number of all former employers regulated by the division of the Department in which the employee is employed.
 - b. An employee shall recuse him/herself from any and all matters before the Department involving the former employer.

Section 2 Ownership of Regulated Persons:

An employee, or a member of an employee's immediate family, shall not:

1. Have an ownership interest in a person regulated by any division in which the employee performs work of any sort **unless and until** his/her direct supervisor and division head are notified in writing. The employee must completely recuse him/herself from any regulatory role with respect to the person. The employee shall do everything reasonably possible to distance him/herself from

any contact and/or conversations concerning the person and shall not maintain his/her ownership interest if he/she cannot maintain the required distance and regulatory perspective.

2. Engage in any financial transaction for personal gain with a person regulated by any division in which the employee performs work of any sort **unless and until** his/her direct supervisor and division head are notified in writing. The employee must completely recuse him/herself from any regulatory role with respect to the person. The employee shall do everything reasonably possible to distance him/herself from any contact and/or conversations concerning the person and shall not maintain the financial relationship if he/she cannot maintain the required distance and regulatory perspective.

Section 3 Supplementation of Income by Outside Source:

An employee, or a member of an employee's immediate family, shall not receive any money or other benefit from a private source as compensation for the employee's services to the Department.

Section 4 Gifts and Other Gratuities:

1. No employee shall solicit or accept, directly or indirectly, on behalf of her/himself or any member of the employee's household and/or immediate family, any gift, including but not limited to any gratuity, service, favor, food, entertainment, lodging, transportation, loan, loan guarantee or any other thing of monetary value, from any person or entity that:
 - a. Currently has, or is seeking to obtain, contractual or other business or financial relations with the Department; or
 - b. Conducts operations or activities that are regulated by the Department; or
 - c. Has interests that may be substantially affected by the performance or nonperformance of the employee's official duties.
2. The prohibitions on accepting gifts in paragraph 1 of this Section 4 do not apply to:
 - a. A gift given to a member of the employee's immediate family or by an individual if the gift is given for a non-business purpose and is motivated by a close personal friendship and not by the position of the employee. In determining whether a gift falls within this subsection, the factors contained in Tenn. Code Ann. §3-6-305(b) (3) shall apply.
 - b. Informational materials in the form of books, articles, periodicals (i.e., magazines, newspapers), other written materials, audio tapes, videotapes, or other forms of communication;
 - c. Sample merchandise, promotional items and appreciation tokens, if they are routinely given to customers, suppliers or potential customers in the ordinary course of business;
 - d. Unsolicited tokens or awards of appreciation, honorary degrees, or bona fide awards in recognition of public service in the form of a plaque, trophy, desk item, wall memento and similar items; the item shall not be in a form which can be readily converted to cash;
 - e. Food, refreshments, foodstuffs, entertainment, or beverages provided as part of a meal or other event, if the value of the items does not exceed fifty dollars (\$50.00) per occasion; provided further, that the value of a gift covered by this subsection may not be reduced below the monetary limit by dividing the cost of the gift among two or more persons or entities identified in paragraph 1 of this Section 4;
 - f. If at any time an employee accepts a gift under c., d., or e. of this paragraph 2, the following must occur:

- (i) The employee must disclose to his/her division head a description of the gift, the name of the person who provided the gift, the name of the person's employer, and the value of the gift, if known, or its estimated value, if unknown.
- (ii) Disclosure must be in writing (e-mail is permitted) and be made within seven (7) calendar days of the acceptance of the gift.
- (iii) At the end of each month, the division head shall forward that month's reports to the Compliance Officer.

When it is in the best interest of the Department, the Compliance Officer in conjunction with the Commissioner may at any time restrict an employee(s) from accepting additional gifts under this paragraph 2;

- g. There may be circumstances where refusal or reimbursement of a gift (such as a lunch or dinner) may be awkward and contrary to the larger interests of the State. In such circumstances, the employee is to use his or her best judgment, and disclose the gift, including a description, estimated value, the person or entity providing the gift, and any explanation necessary within seven (7) calendar days to the Compliance Officer. The Compliance Officer will provide a form for this purpose;
- h. Food, refreshments, meals, foodstuffs, entertainment, beverages or intrastate travel expenses that are provided in connection with an event where the employee is a speaker or part of a panel discussion at a scheduled meeting of an established or recognized membership organization which has regular meetings; and
- i. Loans from established financial institutions made in the ordinary course of business on usual and customary terms, so long as there are no guarantees or collateral provided by any person described in paragraph 1 of this Section 4.

For gifts received from lobbyists, see the Department of Commerce and Insurance Interaction with Lobbyists and Political Activities by Department Employees Policy.

Section 5 Acceptance of Honoraria:

An employee shall not accept honoraria or other compensation for activities which are, or should be, performed as a part of his/her official duties. Reimbursement for reasonable expenses incurred in carrying out such activities will not be considered compensation. For honoraria received from lobbyists, see the Department of Commerce and Insurance Interaction with Lobbyists and Political Activities by Department Employees Policy.

Section 6 Nonprofit Entities:

An employee shall not serve on the governing board of any nonprofit agency which seeks to influence decisions of the Department, **unless** such employee recuses him/herself from any matter the nonprofit agency has before the Department.

Section 7 Use of and Protection of Information Obtained:

An employee shall not, directly or indirectly, use, disclose or allow the use of official information obtained through or in connection with his/her government employment, which has not been made available to the general public, for the purpose of furthering the private interest, pecuniary or otherwise, of any person, including the employee. Furthermore, an employee shall not engage in a financial transaction as a result of, or primarily based upon, information obtained through his/her government employment.

Section 8 Holding of Professional Licenses:

Though employees are encouraged to seek and to retain professional licenses and certification, an employee shall not actively participate in the private use of the license or certification, if the private use is a conflict of interest as described in this policy.

Section 9 Conflicts of Interest Generally:

An employee shall not place him/herself in a position where, for some personal advantage gained or to be gained, the employee finds it difficult, if not impossible, to devote him/herself with complete energy, loyalty, and singleness of purpose to the best interest of the general public. The prohibited personal advantage is something more than the salary, experience, and opportunity to serve the general public, and the esteem gained from employment with the Department.

Section 10 Appearance of Conflict of Interest or Impropriety:

An employee shall avoid any conduct which might result in or create the appearance, however slight, of:

1. Using public office for private gain;
2. Giving preferential treatment to any person;
3. Impeding government efficiency or economy;
4. Losing complete independence or impartiality;
5. Making a government decision outside of official channels; or
6. Affecting adversely the confidence of the public in the integrity of the government.

Section 11 Recusal:

An employee shall treat all persons dealing with the Department impartially and with equal consideration. If an employee believes or should believe that he/she cannot, for any reason, grant equal consideration and/or act impartially towards any person dealing with the Department, he/she shall immediately notify his/her direct supervisor and offer to recuse him/herself from any dealings with said person.

ARTICLE 3. PROHIBITED CONDUCT

Section 1 Purchase of Confiscated Property:

An employee or employee's agent may not buy or offer to buy any motor vehicles (except on behalf of the Department) or intoxicating liquors disposed of at public sale when the employee was directly or indirectly involved in the confiscation of such property. Tenn. Code Ann. §12-2-208.

Section 2 Purchases of Surplus State Property Unless Offered at Public Auction:

An employee shall not purchase surplus property from the State except by bid at public auction. Tenn. Code Ann. §12-2-412(a).

Section 3 Financial Interests:

1. No employee shall enter into or derive any benefit, directly or indirectly, from any contractual arrangement with the State or any of its agencies.

In recognition of the fact that many husbands and wives have separate careers, the normal employment compensation of a spouse whose regular, ongoing employer or business has a contractual arrangement with the State shall not be considered a "benefit" to the employee,

provided the contract with the State was procured without any participation, assistance or influence by the employee.

2. No employee shall have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his or her government duties or responsibilities.
 - a. "Indirect financial interest" as used here includes a substantial interest on the part of a parent, spouse, or minor child of the employee.
 - b. This subsection shall not apply to interests that have been placed into a "blind trust" arrangement pursuant to which the employee does not have knowledge of the retention or disposition of the interests.
 - c. This subsection also shall not apply to ownership of publicly traded stocks or bonds where the ownership constitutes less than two percent (2%) of the total outstanding amount of the stocks or bonds of the issuing entity.
3. If, at the time the employee begins employment with the State or at any subsequent time during State employment, the employee possesses the direct or indirect financial interests prohibited by this section, the employee shall divest the interest within a reasonable time and notify his/her supervisor and division head of the interest and divestiture.

Section 4 Input or Control over State Contracts:

An employee shall not be interested, either directly or indirectly, in any state contract over which the employee has input or control. Tenn. Code Ann §12-4-101.

Section 5 Purchase and Sale of Property to or from the State:

An employee shall not bid on, sell, or offer for sale any merchandise, equipment or material, or similar commodity, to the State, during the tenure of such official's or employee's office or employment, or for six (6) months thereafter, or have any interest in the selling of the same. Tenn. Code Ann. §12-4-103.

Section 6 Use of Government Property:

No employee shall make use of the facilities, equipment, personnel, or supplies of the State or its agencies for private use or gain, except to the extent that the use is incidental or minimal or is lawfully available to the general public.

Section 7 Specific Prohibitions and Other Conduct Prohibited by Law:

All prohibitions listed in this Article are generally described; all employees are presumed to be aware of such prohibitions with specificity and any other prohibitions mandated by law by any governmental unit.

This Article has been written merely to provide examples of the employee conduct that is prohibited by statute, rule and regulation, and is not intended to be an exhaustive list of the prohibited activities.

ARTICLE 4. EFFECT OF CONFLICTS OF INTEREST

Section 1 Preferred Service Employees:

A preferred service employee who engages in an act prohibited by this policy shall be subject to disciplinary action in accordance with Tenn. Code Ann. §§ 8-30-315, 316 and 319 and the Rules and Regulations of the State of Tennessee Department of Human Resources.

If the conduct of a preferred service employee is criminal in nature, the employee may also be prosecuted for misconduct pursuant to Tenn. Code Ann. § Title 39, Chapter 16, Part 4.

Section 2 Executive Service Employees:

An executive service employee who engages in an act prohibited by this policy shall be subject to disciplinary action in accordance with the dictates of the Commissioner.

If the conduct of an executive service employee is criminal in nature, the employee may also be prosecuted for misconduct pursuant to Tenn. Code Ann. § Title 39, Chapter 16, Part 4.

Section 3 Independent Contractors:

Any person who has an employment relationship with the Department acting as an independent contractor and who engages in an act prohibited by this policy shall be subject to any and all remedies available to the Commissioner that are specified in the contract of employment, as well as any and all other remedies available to the Commissioner.

If the conduct of such an independent contractor is criminal in nature, the independent contractor may also be prosecuted for misconduct pursuant to Tenn. Code Ann. § Title 39, Chapter 16, Part 4.

ARTICLE 5. DISCLOSURE OF CONFLICTS OF INTEREST

Section 1 Annual Disclosures for Preferred Service Employees:

Upon employment with the Department, and on or before February 28, 2020, and January 31st of each calendar year thereafter, all preferred service employees, on forms provided by the Department, shall disclose the following:

1. The employer's name, address and phone number for all jobs (including self-employed jobs) with annual wages or compensation greater than Five Thousand Dollars (\$5,000.00) then held by the employee, those which the employee held during the previous twelve (12) months and those which the employee expects to hold during the following twelve (12) months, other than the employee's employment with the Department; and all jobs held by the employee's immediate family, **if** the employer is in any manner regulated by any division for which the employee works;
2. The name, address and phone number of all persons and entities with respect to whom the employee and/or the employee's immediate family have an ownership interest or indebtedness greater than Five Thousand Dollars (\$5,000.00), **if** the person or entity is in any manner regulated by any division for which the employee works.
 - a. Even though preferred service employees are not required to disclose conflicts of interest with a value of Five Thousand Dollars (\$5,000.00) or less, all preferred service employees must be aware that such conflicts are still subject to this policy, and that any preferred service employee violating this policy, even with a conflict valued at Five Thousand Dollars (\$5,000.00) or less, is subject to the penalties specified in Article 4 of this policy.
 - b. If you are preferred service employee and your job duties are to regulate, inspect, audit or procure goods or services or to administer tax laws, you must disclose all conflicts of interest. This includes any conflicts of interest with a value of Five Thousand Dollars (\$5,000.00) or less.
 - c. If you are preferred service employee and you supervise preferred service employees whose job duties are to regulate, inspect, audit or procure goods or services or to administer tax laws, you must disclose all conflicts of interest. This includes any conflicts of interest with a value of Five Thousand Dollars (\$5,000.00) or less.
3. The name address and phone number for all non-profit organizations for which employee provides volunteer services or holds an officer or director position.

Section 2 Annual Disclosures for Executive Service Employees:

Upon employment with the Department, and on or before February 28, 2020, and January 31st of each calendar year thereafter, all executive service employees, on forms provided by the Department, shall disclose the following:

1. The employer's name, address and phone number for all jobs (including self-employed jobs) then held by the employee, those which the employee held during the previous twelve (12) months and those which the employee expects to hold during the following twelve (12) months, other than the employee's employment with the Department; and all jobs held by the employee's immediate family, **if** the employer is in any manner regulated by any division for which the employee works;
2. The name, address and phone number of all persons and entities with whom the employee and/or the employee's immediate family have an ownership interest or indebtedness greater than a minimal ownership interest or indebtedness, **if** the person or entity is in any manner regulated by any division for which the employee works.

Section 3 Disclosure Forms:

Appropriate disclosure forms may be obtained from the Department's Human Resources Section. Form D-1, attached hereto, shall be filled out by all employees who must disclose a conflict of interest or who are filling out a disclosure form for the first time. Form D-2, attached to this policy, shall be filled out by all employees who have previously filed Form D-1 and who have no new conflicts of interest to disclose. The Human Resources Section shall annually distribute both Form D-1 and Form D-2 to each employee in the Department, and shall collect all completed forms for placement in each respective employee's personnel file. The Department's Human Resources Section shall ensure that all employees in the Department have properly completed the disclosure forms in compliance with the provisions of this policy.

Section 4 Continuing Nature of Duty to Disclose:

The duty to disclose a conflict of interest under this policy is continuing in nature. Conflicts required to be disclosed under this policy that arise after an employee executes Form D-1 must be disclosed on a new Form D-1. This disclosure must be made within seven (7) days of any conflict arising. Assistance in making this disclosure may be obtained from the Department's Human Resources Section.

Section 5 Failure to Disclose:

An employee who fails to disclose a conflict of interest pursuant to this Article shall be subject to the penalties specified in Article 4 of this policy.

ARTICLE 6. MISCELLANEOUS PROVISIONS


Section 1 Interpretations of Policy:

All inquiries concerning the proper interpretation of this policy shall be addressed to the Commissioner. The Commissioner shall resolve any questions concerning the proper interpretation of any provision of this policy.

Section 2 Distribution of Policy:

This policy shall be distributed by the Department's Human Resources Section to each employee upon or shortly after the commencement of the person's employment. The Department's Human Resources Section shall ensure that each new employee receives this policy by requiring each new employee to sign a declaration stating that he/she has received this policy. Furthermore, the Department's Human Resources Section shall provide this policy to any employee of the Department upon request by the employee.

APPROVAL AUTHORITY:


Hodgen Mainda, Commissioner


Date

EFFECTIVE DATE: Immediately.

**FORM D-1
DISCLOSURE STATEMENT**

The Department of Commerce and Insurance's Ethics, Conflict of Interest and Acceptance of Gifts Policy requires employees within the Department to disclose certain information upon employment as well as on or before January 31 of each calendar year. The Form D-1 must be filled out by all employees who have a conflict of interest to disclose or who are filling out a conflict of interest disclosure form for the first time.

It is suggested that you read the Ethics, Conflict of Interest and Acceptance of Gifts Policy as well as review this document in its entirety before filling out this form.

Name (Please Print): _____

Employee ID Number _____

Division: _____ Section: _____

Job Title: _____ Full-Time / Part-Time (circle one)

Job Description: _____

Supervisor's Name: _____

Please disclose the following:

- a. Do you currently hold any job other than your job with the Department? ____ yes ____ no

If YES, how many? _____ Please provide the following information for each employer: (use additional sheet if necessary)

Employer Name: _____

Address: _____

Telephone: _____ Contact Person: _____

Job Title/Description: _____

Full-Time / Part-Time (circle one) Start Date: _____

- b. Have you held any jobs during the previous twelve (12) months? ____ yes ____ no

If YES, how many? _____ Please provide the following information for each employer (use additional sheet if necessary):

Employer Name: _____

Address: _____

Telephone: _____ Contact Person: _____

Job Title/Description: _____

Full-Time / Part-Time (circle one) Start Date: _____ End Date: _____

- c. Do you expect to hold any other jobs during the next twelve (12) months? ____ yes ____ no

If YES, how many? _____ Please provide the following information for each employer (use additional sheet if necessary):

Employer Name: _____

Address: _____

Telephone: _____ Contact Person: _____

Job Title/Description: _____

Full-Time / Part-Time (circle one) Expected Start Date: _____

- d. The names of all former employers regulated by any division of the Department:

Name	Type of Business
_____	_____
_____	_____
_____	_____

- e. Do any of your immediate family members hold any jobs (including self-employed jobs) that result in your immediate family member and/or their employers being regulated in any manner by any division* that you work for within the Department? ____ yes ____ no

***Please see attached list of divisions.**

If YES, how many? _____ Please complete the following information for each (use additional sheet if necessary):

Individual's Name: _____ Relationship: _____

Employer's Name: _____

Job Title/Description: _____

- f. Do either you or your immediate family have an ownership interest greater than a de minimis (trifling or insignificant) ownership interest in relation to any person or entity that is in any manner regulated by any division that you work for within the Department? ____ yes ____ no

If YES, please complete the following information for each:

Name of Person or Entity: _____

Address: _____ Telephone: _____

- g. Do either you or your immediate family have a loan or other form of indebtedness greater than a de minimis (trifling or insignificant) indebtedness in relation to any person or entity that is in any manner regulated by any division that you work for within the Department? ____ yes ____ no

If YES, please complete the following information for each:

Name of Person or Entity: _____

Address: _____ Telephone: _____

COMPLETE THIS SECTION ONLY IF YOU ARE A PREFERRED SERVICE EMPLOYEE:

Please initial next to each provision below to indicate your understanding:

- _____ I understand that, pursuant to Tenn. Code Ann. § 8-50-506 (discussed in Article 5, Section 1 of Ethics, Conflict of Interest and Acceptance of Gifts Policy), if I am a preferred service employee, I am not required to disclose any conflict of interest in which the value of the conflict is five thousand dollars (\$5,000.00) or less.
- _____ I understand that, pursuant to Tenn. Code Ann. § 8-50-506, if I am a preferred service employee, I am required to disclose any conflict of interest (regardless of value) if my duties are to regulate, inspect, audit or procure goods or services or to administer tax laws.
- _____ I understand that, pursuant to Tenn. Code Ann. § 8-50-506, if I am a preferred service employee, I am required to disclose any conflict of interest (regardless of value) if I supervise preferred service employees whose job duties are to regulate, inspect, audit or procure goods or services or to administer tax laws.
- _____ I understand that all conflicts, even those conflicts that are not required to be disclosed on this form, are subject to the Department's conflict of interest policy.
- _____ I understand that, if I have a conflict of interest – even one that is valued at five thousand dollars (\$5,000.00) or less – I am subject to discipline and penalties, up to and including criminal prosecution and dismissal, if I violate this policy.
- _____ I understand that I am under a continuing obligation to update my supervisor should a conflict of interest requiring disclosure arise after I have submitted this form.

Signature of Employee

Date

Receipt Acknowledgement

Date

COMPLETE THIS SECTION ONLY IF YOU ARE AN EXECUTIVE SERVICE EMPLOYEE:

Please initial next to each provision below to indicate your understanding:

- _____ I understand that I must disclose any conflict outlined within this disclosure form (regardless of the value).
- _____ I understand that I am under a continuing obligation to update my supervisor should a conflict of interest arise after I have submitted this form.
- _____ I understand that I am subject to discipline and penalties, up to and including criminal prosecution and dismissal, if I violate this policy.

Signature of Employee

Date

Receipt Acknowledgement

Date

**DECLARATION OF RECEIPT
OF
ETHICS, CONFLICT OF INTEREST AND ACCEPTANCE OF GIFTS POLICY**

I, **(Print Name)** _____, declare that I have received a copy of the Department of Commerce and Insurance's Ethics, Conflict of Interest and Acceptance of Gifts Policy, and I have read and understand this policy.

Signature of Employee

Date

**FORM D-2
DISCLOSURE STATEMENT**

The Department of Commerce and Insurance's Ethics, Conflict of Interest and Acceptance of Gifts Policy requires employees within the Department to disclose certain information on or before January 31st of each calendar year.

This form should be filled out by all employees who have previously filled out a Conflict of Interest disclosure form and who have no new conflicts of interest to disclose.

Please initial next to each provision below to indicate your understanding:

_____ I have read the last disclosure statement that I submitted to the Department of Commerce and Insurance in compliance with the Department's Ethics, Conflict of Interest and Acceptance of Gifts Policy prior to signing this disclosure statement. **(If you would like a copy of your previously completed D-1 form, please contact Commerce & Insurance Human Resources Section.)**

_____ To the best of my knowledge, information and belief, the information that was reported on the last disclosure statement that I submitted to the Department in compliance with the Department's Ethics Conflict of Interest and Acceptance of Gifts Policy is currently accurate and unchanged since the last reporting period.

_____ I understand that I am under a continuing obligation to update my supervisor should a conflict of interest arise after I have submitted this form.

Signature of Employee

Date

Print Name

Employee ID Number

Receipt Acknowledgement

Date

**DECLARATION OF RECEIPT
OF
ETHICS, CONFLICT OF INTEREST AND ACCEPTANCE OF GIFTS POLICY**

I, **(Print Name)** _____, declare that I have received a copy of the Department of Commerce and Insurance's Ethics, Conflict of Interest and Acceptance of Gifts Policy, and I have read and understand this policy.

Signature of Employee

Date

SUPPLEMENTAL INFORMATION TO FORM D-1 DISCLOSURE STATEMENT
(For Use with Sections a. – c. on Form D-1)

Name **(Please Print)**: _____

Employee ID Number _____

- Please Circle One: Current Job Previous Job (within 12 mos.) Future Job (within 12 mos.)

Employer Name: _____ Full-Time / Part-Time (circle one)

Address: _____

Telephone: _____ Contact Person: _____

Job Title/Description: _____

Start Date/Expected Start Date: _____ End Date (if applicable): _____

- Please Circle One: Current Job Previous Job (within 12 mos.) Future Job (within 12 mos.)

Employer Name: _____ Full-Time / Part-Time (circle one)

Address: _____

Telephone: _____ Contact Person: _____

Job Title/Description: _____

Start Date/Expected Start Date: _____ End Date (if applicable): _____

- Please Circle One: Current Job Previous Job (within 12 mos.) Future Job (within 12 mos.)

Employer Name: _____ Full-Time / Part-Time (circle one)

Address: _____

Telephone: _____ Contact Person: _____

Job Title/Description: _____

Start Date/Expected Start Date: _____ End Date (if applicable): _____

- Please Circle One: Current Job Previous Job (within 12 mos.) Future Job (within 12 mos.)

Employer Name: _____ Full-Time / Part-Time (circle one)

Address: _____

Telephone: _____ Contact Person: _____

Job Title/Description: _____

Start Date/Expected Start Date: _____ End Date (if applicable): _____

SUPPLEMENTAL INFORMATION TO FORM D-1 DISCLOSURE STATEMENT
(For Use with Section e. on Form D-1)

Name **(Please Print)**: _____

Employee ID Number _____

Please complete the following information for any of your immediate family members who hold any jobs (including self-employed jobs) that result in your immediate family member and/or their employers being regulated in any manner by any division that you work for within the Department.

- Individual's Name: _____ Relationship: _____
Employer's Name: _____
Job Title/Description: _____

- Individual's Name: _____ Relationship: _____
Employer's Name: _____
Job Title/Description: _____

- Individual's Name: _____ Relationship: _____
Employer's Name: _____
Job Title/Description: _____

- Individual's Name: _____ Relationship: _____
Employer's Name: _____
Job Title/Description: _____

- Individual's Name: _____ Relationship: _____
Employer's Name: _____
Job Title/Description: _____

Address: _____ Telephone: _____

Divisions/Sections within the Department of Commerce and Insurance

- Insurance Division: regulates/licenses individuals and entities that sell insurance products in Tennessee, assesses suspicions of fraud, and provides resources to compare various insurance providers for citizens of Tennessee
 - Agent Licensing Section
 - Captive Insurance Section
 - Consumer Insurance Services Section
 - Financial Affairs Section
 - Insurance Examinations Section
 - Fraud Investigations Section
 - Policy Analysis Section
- Securities Division: regulates the securities industry and the securities products (public and private offerings) that are sold in the State of Tennessee; registers broker-dealers, agents, investment advisers, and investment advisor representatives
 - Registration Section
 - Enforcement Section
- Fire Prevention Division: issues electrical permits and residential building permits; issues permits, licenses, and certificates of registration related to explosives, fire sprinkler systems, fire extinguishers, fireworks, and LP Gas
 - Administrative Services
 - Bomb & Arson
 - Codes Enforcement
 - Fire Service & Codes Enforcement Academy
 - Residential/Electrical Contract Inspection
 - Manufactured Housing
 - Firefighting Commission
- Regulatory Boards Division: regulates professionals/businesses in the following areas:
 - Accountancy
 - Alarm Systems Contractors
 - Architects & Engineers
 - Athletic Commission
 - Auctioneers
 - Collections
 - Contractors & Home Improvement
 - Cosmetology and Barber
 - Court Reporters
 - Credit Service Businesses
 - Motor Vehicle
 - Private Investigation & Polygraph
 - Private Probation Service
 - Private Protective Services
 - Debt Management
 - Funeral Directors, Embalmers & Burial Services
 - Geologists
 - Home Inspectors
 - Land Surveyors
 - Limited Licensed Electricians
 - Limited Licensed Plumbers
 - Locksmiths
 - Real Estate Appraisers
 - Real Estate Commission
 - Scrap Metals
 - Soil Scientists
- TennCare Oversight Division: monitors the financial condition and timely payment practices of the health maintenance organizations and behavioral health organizations that contract to provide services to TennCare enrollees
- Tennessee Emergency Communications Board: charged with establishment and maintenance of a statewide emergency communications system
- Tennessee Law Enforcement Training Academy (TLETA): provides training for state, county, and city law enforcement officers
- Peace Officer Standard and Training Commission (POST): regulatory body for Tennessee law enforcement officers